

SO. CAL. EQUAL ACCESS GROUP
Jason J. Kim (SBN 190246)
Jason Yoon (SBN 306137)
101 S. Western Ave., Second Floor
Los Angeles, CA 90004
Telephone: (213) 252-8008
Facsimile: (213) 252-8009
scalequalaccess@yahoo.com

Attorneys for Plaintiff
LUZ ZENDEJAS

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LUZ ZENDEJAS,

Plaintiff,

vs.

WOODLAND HILLS SHOPPING
CENTER, LLC; and DOES 1 to 10,
Defendants.

Case No.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR
VIOLATION OF:

1. AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL
RIGHTS ACT, CAL CIV. CODE §§ 51 -
52 et seq.;
3. CALIFORNIA'S DISABLED
PERSONS ACT, CAL CIV. CODE §54 et
seq.
4. CALIFORNIA'S UNFAIR
COMPETITION ACT, CAL BUS & PROF
CODE § 17200, et seq.
5. NEGLIGENCE

Plaintiff LUZ ZENDEJAS ("Plaintiff") complains of Defendants WOODLAND
HILLS SHOPPING CENTER, LLC; and DOES 1 to 10 ("Defendants") and alleges as
follows:

//

//

1 **JURISDICTION AND VENUE**

2 1. The Court has jurisdiction of this action pursuant to 28 USC §1331 for
3 violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

4 2. Pursuant to pendant jurisdiction, attendant and related causes of action,
5 arising from the same nucleus of operating facts, are also brought under California law,
6 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,
7 54, 54., 54.3 and 55.

8 3. Venue is proper in this court pursuant to 28 USC §1391(b). The real
9 property which is the subject of this action is located in this district, Los Angeles County,
10 California, and Plaintiff's causes of actions arose in this district.

11 **PARTIES**

12 4. Plaintiff is a California resident with a physical disability with substantial
13 limitations in her ability to walk. Plaintiff is diagnosed with multiple sclerosis which
14 resulted in nerve damage and requires the use of a wheelchair at all times when traveling
15 in public.

16 5. Defendants are, or were at the time of the incident, the real property owners,
17 business operators, lessors and/or lessees of the real property for a clothing store
18 ("Business") located at or about 20819 Ventura Blvd., Woodland Hills, California.

19 6. The true names and capacities, whether individual, corporate, associate or
20 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,
21 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
22 Court to amend this Complaint when the true names and capacities have been
23 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such
24 fictitiously named Defendants are responsible in some manner, and therefore, liable to
25 Plaintiff for the acts herein alleged.

26 7. Plaintiff is informed and believes, and thereon alleges that, at all relevant
27 times, each of the Defendants was the agent, employee, or alter-ego of each of the other
28 Defendants, and/or was acting in concert with each of the other Defendants, and in doing

1 the things alleged herein was acting with the knowledge and consent of the other
2 Defendants and within the course and scope of such agency or employment relationship.

3 8. Whenever and wherever reference is made in this Complaint to any act or
4 failure to act by a defendant or Defendants, such allegations and references shall also be
5 deemed to mean the acts and failures to act of each Defendant acting individually, jointly
6 and severally.

7 **FACTUAL ALLEGATIONS**

8 9. In or about March of 2022, Plaintiff went to the Business. The Business is a
9 clothing store business establishment, which is open to the public, and is a place of public
10 accommodation and affects commerce through its operation. Defendants provide parking
11 spaces for customers.

12 10. While attempting to enter the Business during each visit, Plaintiff personally
13 encountered a number of barriers that interfered with her ability to use and enjoy the
14 goods, services, privileges, and accommodations offered at the Business. To the extent
15 of Plaintiff's personal knowledge, the barriers at the Business included, but were not
16 limited to, the following:

17 a. Defendants failed to comply with the federal and state standards for
18 the parking space designated for persons with disabilities. Defendants
19 failed to post required signage such as "Van Accessible" and
20 "Minimum Fine \$250."

21 b. Defendant failed to maintain the parking space designated for persons
22 with disabilities to comply with the federal and state standards.
23 Defendants failed to provide the access aisles with level surface
24 slopes.

25 11. These barriers and conditions denied Plaintiff the full and equal access to the
26 Business. Plaintiff wishes to patronize the Business again. However, Plaintiff is deterred
27 from visiting the Business because her knowledge of these violations prevents her from
28 returning until the barriers are removed.

1 such goods, services, facilities, privileges, advantages, or
2 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

3 b. A failure to take such steps as may be necessary to ensure that no
4 individual with a disability is excluded, denied services, segregated or
5 otherwise treated differently than other individuals because of the
6 absence of auxiliary aids and services, unless the entity can
7 demonstrate that taking such steps would fundamentally alter the
8 nature of the good, service, facility, privilege, advantage, or
9 accommodation being offered or would result in an undue burden. 42
10 U.S.C. § 12182(b)(2)(A)(iii).

11 c. A failure to remove architectural barriers, and communication barriers
12 that are structural in nature, in existing facilities, and transportation
13 barriers in existing vehicles and rail passenger cars used by an
14 establishment for transporting individuals (not including barriers that
15 can only be removed through the retrofitting of vehicles or rail
16 passenger cars by the installation of a hydraulic or other lift), where
17 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

18 d. A failure to make alterations in such a manner that, to the maximum
19 extent feasible, the altered portions of the facility are readily
20 accessible to and usable by individuals with disabilities, including
21 individuals who use wheelchairs or to ensure that, to the maximum
22 extent feasible, the path of travel to the altered area and the
23 bathrooms, telephones, and drinking fountains serving the altered
24 area, are readily accessible to and usable by individuals with
25 disabilities where such alterations to the path or travel or the
26 bathrooms, telephones, and drinking fountains serving the altered
27 area are not disproportionate to the overall alterations in terms of cost
28 and scope. 42 U.S.C. § 12183(a)(2).

1 18. Where parking spaces are provided, accessible parking spaces shall be
2 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every
3 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in
4 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA
5 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall
6 be van parking space. 2010 ADA Standards § 208.2.4.

7 19. Under the ADA, the method and color of marking are to be addressed by
8 State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California
9 Building Code (“CBC”), the parking space identification signs shall include the
10 International Symbol of Accessibility. Parking identification signs shall be reflectorized
11 with a minimum area of 70 square inches. Additional language or an additional sign
12 below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A
13 parking space identification sign shall be permanently posted immediately adjacent and
14 visible from each parking space, shall be located with its centerline a maximum of 12
15 inches from the centerline of the parking space and may be posted on a wall at the
16 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

17 20. Moreover, an additional sign shall be posted either in a conspicuous place at
18 each entrance to an off-street parking facility or immediately adjacent to on-site
19 accessible parking and visible from each parking space. The additional sign shall not be
20 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in
21 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in
22 designated accessible spaces not displaying distinguishing placards or special license
23 plates issued for persons with disabilities will be towed always at the owner’s expense...”
24 *See* CBC § 11B-502.8, *et seq.*

25 21. Here, Defendants failed to provide signs stating “Minimum Fine \$250” and
26 “Van Accessible.”

27 22. Under the 199 Standards, parking spaces and access aisles must be level
28 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.

1 Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles
 2 shall be part of an accessible route to the building or facility entrance and shall comply
 3 with 4.3. Two accessible parking spaces may share a common access aisle. Parked
 4 vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces
 5 and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all
 6 directions. 1991 Standards § 4.6.3.

7 23. Here, the access aisles are not level with the parking spaces. Under the 2010
 8 Standards, access aisles shall be at the same level as the parking spaces they serve.
 9 Changes in level are not permitted. 2010 Standards § 502.4. “Access aisles are required
 10 to be nearly level in all directions to provide a surface for transfer to and from vehicles.”
 11 2010 Standards § 502.4 Advisory. *Id.* No more than a 1:48 slope is permitted. 2010
 12 Standards § 502.4.

13 24. A public accommodation shall maintain in operable working condition those
 14 features of facilities and equipment that are required to be readily accessible to and usable
 15 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a). By failing to
 16 maintain the facility to be readily accessible and usable by Plaintiff, Defendants are in
 17 violation of Plaintiff’s rights under the ADA and its related regulations.

18 25. The Business has denied and continues to deny full and equal access to
 19 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be
 20 discriminated against due to the lack of accessible facilities, and therefore, seeks
 21 injunctive relief to alter facilities to make such facilities readily accessible to and usable
 22 by individuals with disabilities.

23 **SECOND CAUSE OF ACTION**

24 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

25 26. Plaintiff incorporates by reference each of the allegations in all prior
 26 paragraphs in this complaint.

27 27. California Civil Code § 51 states, “All persons within the jurisdiction of this
 28 state are free and equal, and no matter what their sex, race, color, religion, ancestry,

1 national origin, disability, medical condition, genetic information, marital status, sexual
2 orientation, citizenship, primary language, or immigration status are entitled to the full
3 and equal accommodations, advantages, facilities, privileges, or services in all business
4 establishments of every kind whatsoever.”

5 28. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,
6 or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable
7 for each and every offense for the actual damages, and any amount that may be
8 determined by a jury, or a court sitting without a jury, up to a maximum of three times the
9 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any
10 attorney’s fees that may be determined by the court in addition thereto, suffered by any
11 person denied the rights provided in Section 51, 51.5, or 51.6.

12 29. California Civil Code § 51(f) specifies, “a violation of the right of any
13 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)
14 shall also constitute a violation of this section.”

15 30. The actions and omissions of Defendants alleged herein constitute a denial
16 of full and equal accommodation, advantages, facilities, privileges, or services by
17 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.
18 Defendants have discriminated against Plaintiff in violation of California Civil Code §§
19 51 and 52.

20 31. The violations of the Unruh Civil Rights Act caused Plaintiff to experience
21 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory
22 damages as specified in California Civil Code §55.56(a)-(c).

23 **THIRD CAUSE OF ACTION**

24 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

25 32. Plaintiff incorporates by reference each of the allegations in all prior
26 paragraphs in this complaint.

27 33. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be
28 entitled to full and equal access, as other members of the general public, to

1 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,
2 and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles,
3 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes
4 of transportation (whether private, public, franchised, licensed, contracted, or otherwise
5 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,
6 places of public accommodations, amusement, or resort, and other places in which the
7 general public is invited, subject only to the conditions and limitations established by
8 law, or state or federal regulation, and applicable alike to all persons.

9 34. California Civil Code § 54.3(a) states, "Any person or persons, firm or
10 corporation who denies or interferes with admittance to or enjoyment of public facilities
11 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an
12 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for
13 the actual damages, and any amount as may be determined by a jury, or a court sitting
14 without a jury, up to a maximum of three times the amount of actual damages but in no
15 case less than one thousand dollars (\$1,000) and any attorney's fees that may be
16 determined by the court in addition thereto, suffered by any person denied the rights
17 provided in Section 54, 54.1, and 54.2.

18 35. California Civil Code § 54(d) specifies, "a violation of the right of an
19 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also
20 constitute a violation of this section, and nothing in this section shall be construed to limit
21 the access of any person in violation of that act.

22 36. The actions and omissions of Defendants alleged herein constitute a denial
23 of full and equal accommodation, advantages, and facilities by physically disabled
24 persons within the meaning of California Civil Code § 54. Defendants have
25 discriminated against Plaintiff in violation of California Civil Code § 54.

26 37. The violations of the California Disabled Persons Act caused Plaintiff to
27 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
28 statutory damages as specified in California Civil Code §55.56(a)-(c).

FOURTH CAUSE OF ACTION
UNFAIR COMPETITION ACT

38. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

39. Defendants have engaged in unfair competition, unfair or fraudulent business practices, and unfair, deceptive, untrue or misleading advertising in violation of the Unfair Competition Act. Bus & Prof. Code §§ 17200 *et seq.*

40. Defendants engage in business practices and policies that create systemic barriers to full and equal access for people with disability in violation of state and federal law.

41. The actions and omissions of Defendants are unfair and injurious to Plaintiff, a consumer of the Business' goods and services. As a result of Defendants' unfair business practice and policies, Plaintiff suffered injury in fact. Plaintiff was not provided with goods and services provided to other consumers. Plaintiff seeks relief necessary to prevent Defendants' continued unfair business practices and policies and restitution of any month that Defendants acquired by means of such unfair competition, including profits unfairly obtained.

FIFTH CAUSE OF ACTION
NEGLIGENCE

42. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

43. Defendants have a general duty and a duty under the ADA, Unruh Civil Rights Act and California Disabled Persons Act to provide safe and accessible facilities to the Plaintiff.

44. Defendants breached their duty of care by violating the provisions of ADA, Unruh Civil Rights Act and California Disabled Persons Act.

45. As a direct and proximate result of Defendants' negligent conduct, Plaintiff has suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for relief and judgment against Defendants as follows:

1. For preliminary and permanent injunction directing Defendants to comply with the Americans with Disability Act and the Unruh Civil Rights Act;
2. Award of all appropriate damages, including but not limited to statutory damages, general damages and treble damages in amounts, according to proof;
3. Award of all reasonable restitution for Defendants' unfair competition practices;
4. Reasonable attorney's fees, litigation expenses, and costs of suit in this action;
5. Prejudgment interest pursuant to California Civil Code § 3291; and
6. Such other and further relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: April 26, 2022

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim
Jason J. Kim, Esq.
Attorneys for Plaintiff